**Form D.3 Template for the EELQMS lubricant marketers’ derogation from the Letter of Conformance**

# To: ATIEL ASBL

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 Rue Belliard 40

 Brussels B 1040

 Belgium

# *From: Company name*

*[Insert current address]*

 *[Insert nominated e-mail address for correspondence]*D1

**Subject: Lubricant marketers’ Derogation from the Letter of Conformance**

*[Name of the participating company]*, hereinafter referred to as “The Company”, duly represented by the undersigned acting for The Company and entities acting under its brand, hereby formally declares that, in accordance with the provisions detailed in Appendix A.5 of the ATIEL Code of Practice (hereinafter referred to as Appendix A), it is applying the temporary, emergency derogation of the base stock interchange guidelines as described in Section 6.5. In this respect, *[Name of the participating company]* confirms that:

* the derogation is effective from the date of manufacture of [*date*] and will be withdrawn on the date of manufacture of [*date*], with a maximum period of ninety days;
* the derogation arises from a shortage of base stock beyond the company’s control and is as a consequence of a situation of *force majeure*, as defined in A.5.2 of Appendix A;
* the derogation is not as a consequence of commercial hardship, as defined in A.5.2.of Appendix A;
* the use of this derogation is a last resort, all other alternatives having been rigorously pursued and documented;
* It is solely responsible for the quality of affected products and the claims made for them when invoking this derogation;
* the derogation does not change the self-certifying nature of ACEA performance claims;
* ATIEL has no responsibility for any issues or claims arising from the use of this derogation;
* the attention of the internal and external auditors will be drawn to the use of this derogation and all necessary data requested as part of any such audit will be provided;
* a report will be sent to the ATIEL Secretary General every thirty days on the steps being taken to rectify the material impossibility and steps being taken to add missing results to the data package;
* the quality of the product to be marketed is sufficient to support the claims made for it;
* the derogation does not take any responsibility for OEM performance claims made on products impacted by this derogation;
* attached to this letter is supporting evidence, as detailed in A.5.4.d) to g) of Appendix A, of the *force majeure* situation, the actions already taken to find alternative sources of base stocks, an explanation of why the current base stock interchange guidelines cannot be applied, and the specific relaxation proposed for subject formulations;
* if passing engine test data carried out as detailed in A5.5 f) of Appendix A is not obtained, it must cease making use of this derogation and will inform ATIEL Secretary General of the cessation date.

In addition, The Company confirms that it has created a database as detailed in A.5.5 of Appendix A providing details of:

* all missing test data and test work planned to close any gaps;
* the base stocks currently used to comply with the ATIEL Code of Practice and the alternatives proposed under this derogation;
* all products and re-brands impacted by the use of this derogation together with marketing territories and channels of trade;
* chemical and physical data and bench test results for base stocks and finished products using the current and proposed base stocks;
* evidence of performance claims (and proposed changes) made for impacted products in labels and product data sheets;
* engine test data to support the claims to be made, highlighting gaps in the data set, together with a plan and time line to show that the missing data will be obtained and then reported;
* The corrective actions taken if passing engine test data carried out as detailed in A.5.5 f) of Appendix A is not obtained;

The Company mandates ATIEL to:

* include its company name and the period of the derogation involved in a list of those applying this derogation and to make this list available to any interested party (including ACEA) by publishing it on the ATIEL website.

The Company is solely responsible for compliance with the obligations defined in this letter.

*[Insert signature]*

D1 Future versions of the ATIEL Code of Practice will be uploaded to the ATIEL website and on the SAIL website. In addition, SAIL will send a notification to an email address nominated by each signatory of the ATIEL Letters of Conformance. This email address will also be used for provision of additional information relating to the Code.